

Message Text

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ACTION EB-07

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FEAE-00 OMB-01 AF-08 ARA-06 EA-07 EUR-12 NEA-10 /130 W

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FM USDEL MTN GENEVA

TO SECSTATE WASHDC IMMEDIATE 1849

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PASS STR - KELLY

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SUBJ: INITIAL INPUT QR NEGOTIATING PROCEDURES

1. AT THE LAST MEETING OF THE QR SUBGROUP, THE U.S. STATED WE WOULD BE ADVANCING A "SUGGESTION/ FOR NEGOTIATING PROCEDURES ON QUANTITATIVE RESTRICTIONS THAT WOULD INCLUDE MULTILATERAL AND BILATERAL ELEMENTS AT THE NEXT QR MEETING (NOW SCHEDULED FOR FIRST WEEK IN NOVEMBER). THE FOLLOWING INITIAL INPUT CONTAINS OBSERVATIONS WE RECOMMEND BE TAKEN INTO ACCOUNT IN FORMULATING AND FINALLY DECIDING ON THIS "SUGGESTION". THESE OBSERVATIONS INCLUDE (A) U.S. OBJECTIVES IN QR NEGOTIATIONS, (B) LINKS BETWEEN THE QR GROUP AND OTHER MTN GROUPS IN ADDITION TO GROUP SAFEGUARDS, (C) THE NECESSITY OF A "PRODUCT/MEASURE", AS OPPOSED TO "SYSTEM" ORIENTATION OF THE QR NEGOTIATIONS, (D) THE IMPLICATIONS OF OUR RECENTLY SUBMITTED REFINED AGRICULTURAL NOTIFICATIONS, (E) CONCERNS REGARDING THE AGRICULTURAL SITUATION OF ANY NEW PROPOSAL FOR QR NEGOTIATING PROCEDURES.

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2. OUR MAJOR OBJECTIVES IN THE FIELD OF QUANTITATIVE RESTRICTIONS IN THE MTN ARE TO ELIMINATE TO THE EXTENT POSSIBLE EXISTING QUANTITATIVE RESTRICTIONS, AND TO ACHIEVE AGREEMENT ON RULES THAT WILL LIMIT OR PREVENT NEW QUANTITATIVE RESTRICTIONS FROM BEING EMPLOYED AFTER THE MTN. ACHIEVEMENT OF THESE OBJECTIVES WILL, OF COURSE, BE LINKED WITH PROGRESS IN OTHER ASPECTS OF THE NEGOTIATIONS. FOR EXAMPLE, ON PRODUCTS WHERE BOTH QUOTAS AND TARIFFS ARE EMPLOYED TO CONTROL IMPORTS, RESULTS OF THE TARIFF NEGOTIATIONS WILL HAVE AN EFFECT ON POSSIBLE PROGRESS IN THE QR ASPECTS. FURTHER, ON THOSE ITEMS WHERE BOTH A QUOTA AND ANOTHER TYPE OF NON-TARIFF MEASURE EXISTS, THE ABILITY TO LIBERALIZE THE QUOTA WILL IN MANY WAYS BE CONTINGENT UPON THE SUCCESS OR FAILURE OF EFFORTS UNDERTAKEN TO ELIMINATE WHATEVER OTHER NTB MIGHT EXIST ON THAT SAME PRODUCT. AN IMPORTANT LINK ALSO EXISTS BETWEEN PROGRESS ON QUANTITATIVE RESTRICTIONS AND THE DEVELOPMENT OF A NEW SAFEGUARDS AGREEMENT. IN SIMPLE TERMS, A COUNTRY'S WILLINGNESS TO LIBERALIZE AN EXISTING QR MAY BE CONTINGENT UPON AGREEMENT ON A SATISFACTORY SAFEGUARDS AGREEMENT (THE 1975 EC MANDATE STATES THIS EXPLICITLY). WE BELIEVE THAT IT IS THE JOB OF THE QUANTITATIVE RESTRICTIONS SUBGROUP TO ELIMINATE EXISTING QRS, WHILE THE OBJECTIVE OF THE SAFEGUARDS GROUP SHOULD BE TO REACH AGREEMENT THAT WILL MAKE IT MORE DIFFICULT TO INTRODUCE NEW QRS IN THE FUTURE. WHILE THIS LINK AMONG THE VARIOUS MTN GROUPS (TARIFFS, NTMS, SAFEGUARDS, ETC.) EXISTS, WE DO NOT SEE THIS TO BE A NECESSARY IMPEDIMENT TO THE WORK OF THE QR GROUP AT THIS STAGE OF THE NEGOTIATIONS. FURTHER, WE SHOULD AVOID STRATEGIES THAT MIGHT CAUSE THESE LINKS TO COMPLICATE OR MAKE MORE DIFFICULT THE WORK IN ONE OR ANOTHER OF THE VARIOUS GROUPS.

3. STARTING FROM THE OBJECTIVES AND THE LINKAGES DESCRIBED ABOVE, THE NEXT TASK IS TO DETERMINE WHICH EXISTING QUANTITATIVE RESTRICTIONS ARE OF COMMERCIAL SIGNIFICANCE TO THE UNITED STATES. IT SEEMS TO US THAT CURRENT QRS FALL PRIMARILY INTO FOUR CATEGORIES: (1) DISCRIMINATORY QRS MAINTAINED BY THE EUROPEAN COMMUNITIES AGAINST THE EASTERN EUROPEAN COUNTRIES AND JAPAN, (2) THE RESIDUAL JAPANESE QRS, (3) MISCELLANEOUS NON-DISCRIMINATORY INDUSTRIAL AND LIMITED OFFICIAL USE

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AGRICULTURAL QRS MAINTAINED BY OTHER DEVELOPED COUNTRIES, AND (4) DISCRETIONARY LICENSING SYSTEMS EMPLOYED BY THE DEVELOPING COUNTRIES. WHILE A CASE MIGHT BE MADE FOR U.S. INDIRECT TRADE INTERESTS IN THE DISCRIMINATORY QUANTITATIVE RESTRICTIONS MAINTAINED BY THE EUROPEAN COMMUNITY, IN THE ABSENCE OF ANALYSIS TO MAKE SUCH A CASE, IT SEEMS TO US THAT OUR MAIN INTERESTS LIE IN THE LATTER THREE CATEGORIES.

4. HOW MIGHT THE UNITED STATES BEST APPROACH THESE THREE AREAS OF INTEREST? THE QUANTITATIVE RESTRICTIONS WITHIN THESE AREAS COULD BE CLASSIFIED IN SEVERAL WAYS BY THE GATT PROVISION UNDER WHICH THEY MIGHT BE JUSTIFIED; AS LEGAL OR ILLEGAL; OR THEY COULD BE CATEGORIZED BY THE RATIONALE SET FORTH FOR THEIR MAINTENANCE. IN DECIDING ON CATEGORIZATION, IT IS NECESSARY TO EXAMINE THE ACTUAL SITUATION. WE FIND THAT THE JAPANESE QRS AND THE MISCELLANEOUS DEVELOPED COUNTRY QRS ARE NOT SO MUCH SYSTEMS OF QUANTITATIVE RESTRICTIONS AS THEY ARE PROTECTIVE MEASURES DESIGNED FOR A SPECIFIC PURPOSE AND FOR A SPECIFIC PRODUCT. FOR THE DEVELOPING COUNTRIES, IT IS CLEAR THAT A DIRECT ATTACK ON THEIR QR SYSTEMS (DISCRETIONARY LICENSING) IS FUTILE AND, IN MOST CASES, THE ONLY POSSIBILITY OF LIBERALIZATION WILL BE ON AN ITEM-BY-ITEM BASIS. THIS LEADS TO THE CONCLUSION THAT THE APPROACH MOST LIKELY TO ADVANCE U.S. COMMERCIAL INTERESTS SHOULD BE ORIENTED TOWARDS PARTICULAR QRS ON PARTICULAR PRODUCTS RATHER THAN TO A ATTACKS ON PERVASIVE QR SYSTEMS. IN ADDRESSING PARTICULAR QRS, IT IS LIKELY THAT WE WILL FIND THAT COUNTRIES ARE WILLING TO LIBERALIZE SOME OF THE PARTICULAR MEASURES OF INTEREST TO THE UNITED STATES. IN OTHER CASES, HOWEVER, IT IS LIKELY THAT WE WILL FIND THAT COUNTRIES ARE, FOR ONE REASON OR ANOTHER, UNWILLING UNDER ANY CONDITIONS, TO LIBERALIZE A PARTICULAR MEASURE. THUS, FROM A PRACTICAL NEGOTIATING POINT OF VIEW, THIS IMPLIES THAT THERE ARE REALLY ONLY TWO SIGNIFICANT QR CATEGORIES: THOSE PRODUCT-RELATED QRS THAT ARE NEGOTIABLE, AND THOSE THAT ARE NON-NEGOTIABLE.

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FM USDEL MTN GENEVA
TO SECSTATE WASHDC IMMEDIATE 1850

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THE PLACING OF A PARTICULAR QUANTITATIVE RESTRICTION INTO ONE OF THESE TWO CATEGORIES IS IN ITSELF A NEGOTIATING PROCESS, BUT IS THE FIRST STEP TOWARDS LIBERALIZATION. AT THIS STAGE OUR OBJECTIVE SHOULD BE TO GET AS MANY EXISTING QUANTITATIVE RESTRICTIONS AS POSSIBLE INTO THE "NEGOTIABLE" CATEGORY. ANY MULTILATERAL APPROACH THAT WE PROPOSE IN THE QR SUBGROUP SHOULD HAVE THIS AS ITS PRIMARY OBJECTIVE. SUCH AN APPROACH SHOULD ALSO REFLECT THE 1977 DEADLINE; I.E., THE APPROACH ADOPTED MUST PUT QRS INTO THE NEGOTIATING CATEGORY ON AN EXPEDITIOUS BASIS. FURTHER, ANY QR NEGOTIATING APPROACH THAT WE PROPOSE SHOULD NOT GIVE THE IMPRESSION THAT WE WANT TO CONTINUE THE PREPARATORY PHASE OF THE NEGOTIATION THROUGH FURTHER EXAMINATION AND DISCUSSION. IT SHOULD MAKE CLEAR THAT WE SEEK A PROCEDURE THAT ENABLES US TO GET DOWN TO HARD BARGAINING IN TIME FOR THE 1977 CONCLUSION DATE.

5. THE CONSULTATION PROCESS ON QUANTITATIVE RESTRICTIONS IN WHICH WE ARE NOW ENGAGED SHOULD, IN EFFECT, PLACE ON LIMITED OFFICIAL USE

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THE TABLE THOSE QRS IN WHICH COUNTRIES HAVE A NEGOTIATING INTEREST. THE QUICKEST AND MOST OBVIOUS WAY TO MOVE ON TO THE NEGOTIATING STAGE WOULD BE TO REFINE THESE QUANTITATIVE RESTRICTIONS INTO A REQUEST LIST FOR NEGOTIATING PURPOSES; THE MULTILATERAL ASPECTS OF THE U.S. "SUGGESTION" SHOULD CLEARLY PROVIDE FOR THIS. REGARDLESS OF U.S. INTENTIONS, OUR RECENT REFINED AGRICULTURAL NOTIFICATIONS WILL BE VIEWED BY MANY OF OUR NEGOTIATING PARTNERS AS INDICATING THE U.S. HAS ALREADY MOVED TO THIS NEXT STEP. THESE NEGOTIATING PARTNERS WILL LIKELY CONSIDER DISCUSSION OF THESE NEW REFINED NOTIFICATIONS AS A NEGOTIATION RATHER THAN A CONSULTATION PROCEDURE. THIS CONSIDERATION MUST ALSO BE TAKEN INTO ACCOUNT IN DEVELOPING OUR MULTILATERAL APPROACH.

6. ANOTHER CONSIDERATION THAT SHOULD BE TAKEN INTO ACCOUNT IN DEVELOPING QR NEGOTIATING PROCEDURES IS THE QUESTION OF AGRICULTURE. THE CURRENT QR CONSULTATIONS AND "OTHER PRODUCT" PROCEDURES HAVE OVERCOME THE AGRICULTURAL IMPASSE FOR QR NEGOTIATIONS. IN EFFECT, WE ARE NOW ABLE TO DISCUSS

QRS ON BOTH AGRICULTURAL AND INDUSTRIAL PRODUCTS UNDER NEARLY IDENTICAL PROCEDURES. THE COMMUNITY HAS MADE IT QUITE CLEAR THAT THEY WOULD BE UNWILLING TO ACCEPT ANY MULTILATERAL SOLUTION IN THE QR SUBGROUP THAT WOULD INVOLVE AGRICULTURAL QRS. THEREFORE, ANY NEW QR NEGOTIATING APPROACH SOUGHT IN THE QR SUBGROUP RISKS UPSETTING THE COMPROMISE PREVIOUSLY REACHED AND RAISING, IN STILL ANOTHER CONTEXT, THE BASIC UNSOLVED AGRICULTURE JURISDICTIONAL ISSUE. IT SEEMS TO US THAT OUR OBJECTIVE FOR THE NEXT STAGE OF THE NEGOTIATIONS SHOULD BE (A) TO CONTINUE THIS PARALLEL PROCEDURE INTO THE NEGOTIATING STAGE AND (B) TO AVOID JEOPARDIZING THE LEVEL OF AGRICULTURAL/INDUSTRY HARMONY WE HAVE THUS FAR ACHIEVED IN THE QR AREA.

7. THE ATTITUDE AND POSSIBLE PROPOSALS OF OTHER DELS SHOULD ALSO BE TAKEN INTO ACCOUNT. THE LDCS CLEARLY WANT A MULTILATERAL PHASE-OUT BY DEVELOPED COUNTRIES OF EXISTING QRS AND A STANDSTILL FOR NEW QRS. IT IS JUST AS CLEAR THAT THIS IS UNACCEPTABLE TO THOSE COUNTRIES STILL MAINTAINING QRS. CANADA HAS A REQUEST / OFFER PROCEDURE ON THE TABLE. JAPAN HAS VAGUELY HINTED THAT ANY POSSIBLE LIBERALIZATION OF THEIR QR WOULD BE CONSIDERED ONLY ON A CASE-BY-LIMITED OFFICIAL USE

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CASE BASIS. THE EC HAS INDICATED QRS MIGHT BE ELIMINATED ON AN ITEM-BY-ITEM BASIS, BUT THERE SHOULD BE A MULTILATERAL FACADE TO THESE NEGOTIATIONS. THE EC HAS NOT SUGGESTED WHAT THIS FACADE SHOULD BE.

8. CONCLUSION. THE UNITED STATES IS COMMITTED TO PUTTING ON THE TABLE A SUGGESTION FOR A NEGOTIATING APPROACH AT THE NEXT QR MEETING. IN ORDER TO GET A BETTER IDEA OF WHAT MIGHT BE ACCEPTABLE TO OTHER DELEGATIONS, WE WOULD HOPE TO HAVE THIS SUGGESTION IN HAND FOR DISCUSSION AMONG MAJOR DELEGATIONS WELL BEFORE THAT MEETING. IN DEVELOPING THE APPROACH, HOWEVER, WE SHOULD ENSURE THAT IT DOES NOT IN ANY WAY IMPEDE BILATERAL PROGRESS TOWARD LIBERALIZATION OF EXISTING QUANTITATIVE RESTRICTIONS, AND THAT IT SHOULD NOT FURTHER COMPLICATE THE SITUATION IN GROUP AGRICULTURE. FINALLY, THE SUGGESTION THAT THE U.S. PUTS ON THE TABLE SHOULD BE ONE THAT HAS SOME CHANCE OF BEING A BASIS FOR ACHIEVING AGREEMENT AMONG OUR MAJOR TRADING PARTNERS. TO DO OTHERWISE WOULD SIMPLY WASTE "NEGOTIATING CHIPS" AND CREATE THE IMPRESSION THAT THE U.S. IS NOT READY TO GET DOWN TO HARD BARGAINING. IN OUR VIEW, AGREEMENT ON THE U.S. "SUGGESTION" WOULD NOT BE POSSIBLE IF IT GIVES THE IMPRESSION OF DELAYING QR NEGOTIATIONS OR IF IT GIVES THE IMPRESSION OF MOVING AWAY FROM THE NEAR NEGOTIATING STAGE WHICH WE HAVE REACHED NOW THROUGH THE CONSULTATION PROCESS.

WALKER

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